

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TAL PROPERTIES OF POMONA, LLC
AND AVROHOM MANES,

Plaintiffs,

- against -

THE VILLAGE OF POMONA, BRETT YAGEL, individually
and in his official capacity as Mayor of the Village of Pomona,
DORIS ULMAN, individually and in her official capacity as
Attorney for the Village of Pomona, LOUIS ZUMMO,
individually and in his official capacity as Building Inspector for
the Village of Pomona, NOREEN SHEA, individually and in her
official capacity as Deputy Village Clerk for the Village of Pomona
FRANCIS ARSA-ARTHA, individually and her in official capacity
as Clerk and Treasurer for the Village of Pomona, CHRISTOPHER
RILEY, individually and in his official capacity as Special
Prosecutor for the Village of Pomona, JOSEPH CORLESS,
individually and in his official capacity as Engineer for the
Village of Pomona, LEON HARRIS, individually
and in his official capacity as Deputy Mayor of the Village of
Pomona, IAN BANKS, individually and in his official capacities
as Trustee, and current Mayor for the Village of Pomona, and
JOHN DOES and JANE DOES,

Defendants.
-----X

7:19-CV-06838
(PMH)

**DECLARATION IN
OPPOSITION TO
PLAINTIFFS'
MOTION FOR
RECONSIDERATION**

David H. Arntsen, an attorney duly admitted to practice law before the courts of the State
of New York and the United States District Court for the Southern District of New York hereby
declares under the penalty of perjury as follows:

1. I am with the firm of Volz & Vigliotta, PLLC, attorneys for defendant Ian Banks, sued
individually and in his official capacities as trustee and current mayor for the Village of Pomona.

2. I submit this Declaration in opposition to Plaintiffs' motion seeking reconsideration of this Court's September 7, 2021 Memorandum, Opinion and Order which granted Banks (and the other defendants') motion to dismiss the second amended complaint.

3. At the time that the motions to dismiss were interposed, Banks was represented by the firm of Morris Duffy Alonso & Faley. By Order dated February 11, 2021 (DE 149), the Morris Duffy firm was relieved as counsel for Banks in both his individual and official capacities.

4. On March 12, 2021, the undersigned filed notices of appearance on behalf of Banks in his individual and official capacities (DE 156, 157).

5. In opposition to Plaintiffs' motion seeking reconsideration herein, the following Exhibits are annexed.

6. Annexed hereto as Exhibit "A" is a copy of this Court's Order of September 7, 2021 dismissing the Second Amended Complaint.

7. Annexed hereto as Exhibit "B" is a copy of the Second Amended Complaint from the Prior Action, 17-cv-02928, *Tal Properties of Pomona, LLC v Village of Pomona, et al.*

8. Annexed hereto as Exhibit "C" is a copy of the dismissal of the Second Amended Complaint from the Prior Action.

9. Annexed hereto as Exhibit "D" is a copy of the Court's decision on Plaintiffs' prior Rule 60 motion.

10. Annexed hereto as Exhibit "E" is a copy of the Second Amended Complaint in this action.

11. It is thus respectfully submitted that upon the aforementioned exhibits and the accompanying Memorandum of Law that Plaintiffs' motion be denied in its entirety.

Dated: Nesconset, New York
November 22, 2021

Yours, etc.,

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